

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:
Goodwill Industries of Santa Clara
County
1080 N. 7th Street
San Jose, California 95112

Docket HWCA 20081902

CONSENT ORDER

Health and Safety Code
Section 25187

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Goodwill Industries of Santa Clara County (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Sites. Respondent handles cathode ray tube (CRT) materials and universal waste electronic devices (UWEDs) at the sites listed in Exhibit A (Sites).

1.3. Inspection. The Department inspected the Sites between September 15 and September 19, 2008.

1.4. Handler. Respondent handled CRT materials and UWEDs containing metals including lead, copper, and mercury.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

Goodwill Industries of Santa Clara County

HWCA 20081902

1.6. Full Settlement. By their respective signatures below, the Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. This Order shall constitute full settlement of the violations alleged below. By agreeing to this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction and involving either the Respondent(s) or the Site, except to the extent provided in this Order.

1.7. Admissions. Respondent admits the violations as alleged.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated California Code of Regulations, title 22, section 66273.33, subdivision (d)(2)(A), in that Respondent failed to notify the Department at least 30 days prior to accepting any Universal Waste Electronic Devices (UWEDs) from an offsite source.

2.1.2. Respondent violated California Code of Regulations, title 22, section 66273.82, subdivision (a), in that Respondent failed to notify the Department at least 30 days prior to accepting any Cathode Ray Tube (CRT) materials from an offsite source.

2.1.3. Respondent violated California Code of Regulations, title 22, section 66273.33, subdivision (d)(2)(B), in that Respondent failed to submit to the Department an annual report while accepting greater than 100 kilograms or 220 pounds of UWEDs from any offsite source.

2.1.4. Respondent violated California Code of Regulations, title 22, section 66273.82, subdivision (b)(2), in that Respondent failed to submit to the Department an

annual report while accepting greater than five CRTs, greater than five CRT devices, or greater than 100 kilograms of CRT glass per calendar year from any offsite source.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent has corrected the violations set forth above.

3.1.2. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

3.2. Submittals. All submittals from Respondent pursuant to this Consent Order shall be sent to:

Rita Hypnarowski
E-Waste Team Leader
Senior Hazardous Substances Scientist
State Oversight and Enforcement Branch
Enforcement and Emergency Response Program
8800 Cal Center Drive
Sacramento, California 95826-3200

3.3. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

3.4. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the

authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

3.5. Sampling, Data, and Document Availability.

3.5.1. Respondent shall allow the Department and/or its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order.

3.5.2. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either:

- (a) comply with that request,
- (b) deliver the documents to the Department, or
- (c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order and permit the Department to copy the documents prior to destruction.

3.6. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or

omissions by Respondent, or related parties specified in paragraph 4.3, in carrying out activities pursuant to this Order, nor shall the State of California or the Department be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

3.7. Incorporation of Plans and Reports. All plans, schedules, and reports that were submitted by Respondent pursuant to the violations set forth above and/or this schedule for compliance and were approved by the Department are hereby incorporated into this Order.

4. OTHER PROVISIONS

4.1. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.2. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.3. Privileges. Nothing in this Agreement shall be construed to require any party to waive any privilege. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.

4.4. Time Periods. "Days" for the purpose of this Order means calendar days.

4.5. Captions and Headings. Captions and headings used herein are for convenience only and shall not be used in construing this Consent Order.

4.6. Severability. If any provision of this Consent Order is found by a court of competent jurisdiction to be illegal, invalid, unlawful, void or unenforceable, then such provision shall be enforced to the extent that it is not illegal, invalid, unlawful, void, or unenforceable, and the remainder of this Consent Order shall continue in full force and effect.

4.7. Entire Agreement. This Consent Order contains the entire and only understanding between the Parties regarding the subject matter contained herein and shall supercede any and all prior and/or contemporaneous oral or written negotiations, agreements, representations and understandings and may not be amended, supplemented, or modified, except as provided in this Order. The Parties understand and agree that in entering into this Consent Order, the Parties are not relying on any representations not expressly contained in this Consent Order.

4.8. Counterparts. This Consent Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$1,000.

5.2. Payment is due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic

Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment

Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Rita Hypnarowski
E-Waste Team Leader
Senior Hazardous Substances Scientist
State Oversight and Enforcement Branch
Enforcement and Emergency Response Program
8800 Cal Center Drive
Sacramento, California 95826-3200

5.4. Stipulated Penalties: All of the violations set forth in paragraph 2 above have been corrected, however, the violations noted as subparagraphs 2.1.3 and 2.1.4 (required annual reports) are subject to reoccurrence. In partial consideration of the penalty amount agreed to herein, the parties further agree that for the calendar years 2009, 2010, and 2011 any failure of Respondent to file said annual reports completely and on or before the date required by regulation shall subject Respondent to the following stipulated penalties as to each such report.

a. \$4,000 for failure to have filed a complete report on or before the date required by regulation; and,

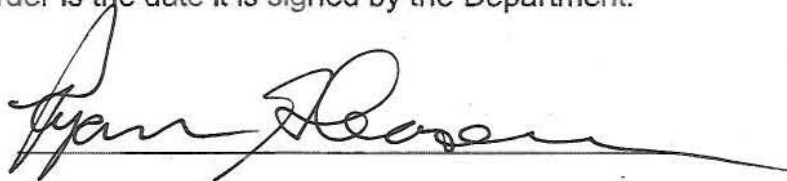
b. \$200 per day for each day thereafter until the required complete report is filed and received by the Department.

5.5. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 1/15/09



Respondent

Dated: 2/4/09

Rita Hypnarowski
Rita Hypnarowski
E-Waste Team Leader
Senior Hazardous Substances Scientist
State Oversight and Enforcement Branch
Enforcement and Emergency Response
Program
Department of Toxic Substances Control